

By: Smith

H.B. No. 4069

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of barbering and cosmetology.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter A, Chapter 1601, Occupations Code, is amended by adding Section 1601.0025 to read as follows:

Sec. 1601.0025. SERVICES NOT CONSTITUTING BARBERING.
Notwithstanding Section 1601.002, "barbering," "practicing barbering," and "practice of barbering" do not include threading, which involves removing hair from an individual using a piece of thread that is looped around the hair and pulled to remove the hair from the skin and includes the incidental trimming of eyebrow hair.

SECTION 2. Section 1601.254(b), Occupations Code, is amended to read as follows:

(b) To be eligible for a barber instructor license, an applicant must:

- (1) be at least 18 years of age;
- (2) have a high school diploma or a high school equivalency certificate;
- (3) hold a current Class A barber certificate;
- (4) have completed:

(A) a course consisting of 750 hours of instruction in barber courses and methods of teaching in a barber school; ~~or~~

(B) at least two years of work experience as a

1 licensed Class A barber immediately preceding the date of the
2 application; or

3 (C) at least one year of work experience as a
4 licensed Class A barber and:

5 (i) have completed 500 hours of instruction
6 in barber courses and methods of teaching in a commission-approved
7 training program;

8 (ii) have completed 15 semester hours in
9 education courses from an accredited college or university within
10 the 10 years preceding the date of the application; or

11 (iii) have obtained a degree in education
12 from an accredited college or university; and

13 (5) pass the required examination.

14 SECTION 3. Section 1601.455(b), Occupations Code, is
15 amended to read as follows:

16 (b) A person holding a license, certificate, or permit under
17 this chapter may perform a service within the scope of the license,
18 certificate, or permit at a location other than a licensed facility
19 for a client who:

20 (1) [7] because of illness or physical or mental
21 incapacitation, is unable to receive the services at a licensed
22 facility; or

23 (2) receives the services in preparation for a special
24 event, including a wedding or quinceañera.

25 SECTION 4. Section 1601.564(c), Occupations Code, is
26 amended to read as follows:

27 (c) If a student withdraws or is terminated after 50 percent

1 of the course has been completed, the school shall allow the student
2 to reenter the school at any time before the second [~~fourth~~]
3 anniversary of the date of withdrawal or termination.

4 SECTION 5. Section 1601.565, Occupations Code, is amended
5 to read as follows:

6 Sec. 1601.565. EFFECT OF STUDENT WITHDRAWAL. (a) A barber
7 school shall record a grade of incomplete for a student who
8 withdraws from a course of training but who is not entitled to a
9 refund under this chapter [~~Section 1601.564~~] if:

10 (1) the student requests the grade at the time of
11 withdrawal; and

12 (2) the withdrawal is for an appropriate reason
13 unrelated to the student's academic status.

14 (b) A student who receives a grade of incomplete may
15 reenroll in the course of training before the second [~~fourth~~]
16 anniversary of the date the student withdraws and may complete the
17 subjects without paying additional tuition.

18 SECTION 6. Section 1602.002(a), Occupations Code, is
19 amended to read as follows:

20 (a) In this chapter, "cosmetology" means the practice of
21 performing or offering to perform for compensation any of the
22 following services:

23 (1) treating a person's hair by:

24 (A) providing any method of treatment as a
25 primary service, including arranging, beautifying, bleaching,
26 cleansing, coloring, cutting, dressing, dyeing, processing,
27 shampooing, shaping, singeing, straightening, styling, tinting, or

1 waving;

2 (B) providing a necessary service that is
3 preparatory or ancillary to a service under Paragraph (A),
4 including bobbing, clipping, cutting, or trimming a person's hair
5 or shaving a person's neck with a safety razor; or

6 (C) cutting the person's hair as a separate and
7 independent service for which a charge is directly or indirectly
8 made separately from charges for any other service;

9 (2) braiding a person's hair;

10 (3) shampooing and conditioning a person's hair;

11 (4) servicing a person's wig or artificial hairpiece
12 on a person's head or on a block after the initial retail sale and
13 servicing in any manner listed in Subdivision (1);

14 (5) treating a person's mustache or beard by
15 arranging, beautifying, coloring, processing, styling, trimming,
16 or shaving with a safety razor;

17 (6) cleansing, stimulating, or massaging a person's
18 scalp, face, neck, or arms:

19 (A) by hand or by using a device, apparatus, or
20 appliance; and

21 (B) with or without the use of any cosmetic
22 preparation, antiseptic, tonic, lotion, or cream;

23 (7) beautifying a person's face, neck, or arms using a
24 cosmetic preparation, antiseptic, tonic, lotion, powder, oil,
25 clay, cream, or appliance;

26 (8) administering facial treatments;

27 (9) removing superfluous hair from a person's body

1 using depilatories, preparations or chemicals, tweezers, or other
2 devices or appliances of any kind or description [~~tweezing~~
3 ~~techniques~~];

4 (10) treating a person's nails by:

5 (A) cutting, trimming, polishing, tinting,
6 coloring, cleansing, or manicuring; or

7 (B) attaching false nails;

8 (11) massaging, cleansing, treating, or beautifying a
9 person's hands or feet;

10 (12) applying semipermanent, thread-like extensions
11 composed of single fibers to a person's eyelashes; or

12 (13) weaving a person's hair.

13 SECTION 7. Subchapter A, Chapter 1602, Occupations Code, is
14 amended by adding Section 1602.0025 to read as follows:

15 Sec. 1602.0025. SERVICES NOT CONSTITUTING COSMETOLOGY.
16 Notwithstanding Section 1602.002(a), "cosmetology" does not
17 include threading, which involves removing hair from an individual
18 using a piece of thread that is looped around the hair and pulled to
19 remove the hair from the skin and includes the incidental trimming
20 of eyebrow hair.

21 SECTION 8. Section 1602.051, Occupations Code, is amended
22 to read as follows:

23 Sec. 1602.051. BOARD; MEMBERSHIP. (a) The Advisory Board
24 on Cosmetology consists of 11 [~~nine~~] members appointed by the
25 presiding officer of the commission, with the commission's
26 approval, as follows:

27 (1) one member who holds a license for a beauty shop

1 that is part of a chain of beauty shops;

2 (2) one member who holds a license for a beauty shop
3 that is not part of a chain of beauty shops;

4 (3) one member who holds a private beauty culture
5 school license;

6 (4) two members who each hold an operator license;

7 (5) one member who holds a manicurist specialty
8 license;

9 (6) [~~(5)~~] one member who represents a licensed public
10 secondary or postsecondary beauty culture school;

11 (7) [~~(6)~~] one member who represents a licensed public
12 secondary beauty culture school; and

13 (8) three [~~(7) two~~] public members.

14 (b) The associate commissioner of the Texas Education
15 Agency responsible for career and technical education or the
16 associate commissioner's authorized representative shall serve as
17 an ex officio member of the advisory board [~~commission~~] without
18 voting privileges.

19 SECTION 9. Section 1602.055(a), Occupations Code, is
20 amended to read as follows:

21 (a) Members of the board serve staggered six-year terms,
22 with the terms of three [~~one~~] or four [~~two~~] members, as appropriate,
23 expiring on the same date each odd-numbered year.

24 SECTION 10. Section 1602.261(a), Occupations Code, is
25 amended to read as follows:

26 (a) A person holding a manicurist/esthetician specialty
27 license may perform only the practice of cosmetology defined in

1 Sections 1602.002(a)(6) through (12) [~~(11)~~].

2 SECTION 11. Section 1602.407(b), Occupations Code, is
3 amended to read as follows:

4 (b) A person holding a license, certificate, or permit under
5 this chapter may perform a service within the scope of the license,
6 certificate, or permit at a location other than a licensed facility
7 for a client who:

8 (1) [~~7~~] because of illness or physical or mental
9 incapacitation, is unable to receive the services at a licensed
10 facility; or

11 (2) receives the services in preparation for a special
12 event, including a wedding or quinceañera.

13 SECTION 12. Section 1602.461, Occupations Code, is amended
14 to read as follows:

15 Sec. 1602.461. REENTRY OF STUDENT AFTER WITHDRAWAL OR
16 TERMINATION. If a student voluntarily withdraws or is terminated
17 after completing 50 percent of the course at a private beauty
18 culture school, the school shall allow the student to reenter at any
19 time during the 24-month [~~48-month~~] period following the date of
20 withdrawal or termination.

21 SECTION 13. Section 1602.462, Occupations Code, is amended
22 to read as follows:

23 Sec. 1602.462. EFFECT OF STUDENT WITHDRAWAL. (a) A private
24 beauty culture school shall record a grade of incomplete for a
25 student who withdraws but is not entitled to a refund under this
26 chapter [~~Section 1602.459(a)~~] if the student:

27 (1) requests the grade at the time the student

1 withdraws; and

2 (2) withdraws for an appropriate reason unrelated to
3 the student's academic status.

4 (b) A student [~~who receives a grade of incomplete~~] may
5 reenroll in the program during the 24-month [~~48-month~~] period
6 following the date the student withdraws and complete the subjects
7 without incurring [~~payment of~~] additional tuition for hours already
8 completed.

9 SECTION 14. Not later than January 1, 2016, the Texas
10 Commission of Licensing and Regulation shall adopt rules to
11 implement the changes in law made by this Act to Chapters 1601 and
12 1602, Occupations Code.

13 SECTION 15. Not later than January 1, 2016, the presiding
14 officer of the Texas Commission of Licensing and Regulation shall
15 appoint the two additional members to the advisory board as
16 required by Section 1602.051, as amended by this Act, and shall
17 designate one member to a term expiring in 2017 and one to a term
18 expiring in 2021.

19 SECTION 16. The change in law made by this Act to Section
20 [1601.254](#)(b), Occupations Code, applies only to an application for a
21 barber instructor license submitted on or after the effective date
22 of this Act. An application for a barber instructor license that is
23 submitted before that date is governed by the law in effect on the
24 date the application was submitted, and the former law is continued
25 in effect for that purpose.

26 SECTION 17. (a) Except as provided by Subsection (b) of
27 this section, this Act takes effect September 1, 2015.

1 (b) Sections 1601.0025 and 1602.0025, Occupations Code, as
2 added by this Act, take effect on the later of:

3 (1) September 1, 2015; or

4 (2) the date on which the Supreme Court of Texas issues
5 a decision in Patel v. Texas Department of Licensing and
6 Regulation, No. 12-0657.